1500481 (Refugee) [2016] AATA 3669 (4 April 2016)

DECISION RECORD

DIVISION:	Migration & Refugee Division
CASE NUMBER:	1500481
COUNTRY OF REFERENCE:	Bangladesh
MEMBER:	Bruce Henry
DATE:	4 April 2016
PLACE OF DECISION:	Brisbane
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection visa.

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2. Statement made on 04 April 2016 at 2:32pm
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Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

6. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).

7. The applicant, who claims to be a citizen of Bangladesh, applied for the visa on [date] June 2013 and the delegate refused to grant the visa on [date] December 2014.

8. The applicant applied for a Protection (Class XA) visa. However, by operation of s.45AA of the Act and r.2.08F of the Migration Regulations 1994, from 16 December 2014 the application is taken to be, and to have always been, a valid application for a Temporary Protection (Class XD) visa and is taken not to be, and never to have been, a valid application for a Protection (Class XA) visa.

9. Although the delegate refused the application as an application for a Protection (Class XA) visa, the effect of r.2.08F is such that the application the Tribunal must consider is one for a Temporary Protection (Class XD) visa.

10. The applicant appeared before the Tribunal on 31 March 2016 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Bengali and English languages.

11. The applicant was represented in relation to the review by his registered migration agent.

CONSIDERATION OF CLAIMS AND EVIDENCE

12. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.

13. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

14. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

> *owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.*

15. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in

Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

16. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

CIRCUMSTANCES PREVENTING THE GRANT OF THE VISA

17. As discussed below, the Department assessed the available identity documentation, and accepted it for the purposes of the decision despite expressing serious concerns about the documentation. Subsequent to the departmental decision, s.91WA was introduced into the Act with effect from 18 April 2015, and applies to all applications currently before the Tribunal as at that date,[1] including this application.

18. Under s.65(1) of the Act, the Minister (or the Tribunal on review) must refuse to grant a visa if the grant is prevented by s.91WA. Section 91WA(1) requires the Minister to refuse to grant a protection visa to an applicant who provides a bogus document as evidence of their identity, nationality or citizenship, or has destroyed or disposed, or caused the destruction or disposal of, documentary evidence of their identity, nationality or citizenship. However, that requirement will not apply if the applicant has a reasonable explanation for the provision, destruction or disposal, and either provides relevant documentary evidence or has taken reasonable steps to provide such evidence: s.91WA(2). Section 91WA and the definition of 'bogus document' are extracted in the attachment to this decision.

IS THE GRANT OF THE VISA PREVENTED BY S.91WA?

19. Accordingly, the Tribunal must determine whether the applicant has provided a bogus document as evidence of his identity, nationality or citizenship (s.91WA(1)), and if so, whether he has a reasonable explanation for the provision, destruction or disposal, and either provides relevant documentary evidence or has taken reasonable steps to provide such evidence: s.91WA(2).

20. Bogus document, in relation to a person, means a document that the Minister (or the Tribunal) reasonably suspects is a document that purports to have been, but was not, issued in respect of the person; or is counterfeit or has been altered by a person who does not have authority to do so; or was obtained because of a false or misleading statement, whether or not made knowingly: s.5(1).

21. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

22. **The evidence**

23. The application and the applicant's written claims are on the departmental file which is before the Tribunal. The applicant attended an interview at the Department on [date] March

[1] Section 2 of the *Migration Amendment (Protection and Other Measures) Act 2015*

2013, and a recording of the interview is located on the departmental file. No further claims or submissions have been received by the Tribunal during the course of the review.

24. In his application the applicant claimed to be a Sunni Muslim from Munshiganj province in Bangladesh. He claims to be a Bengali and a Bangladeshi citizen. He arrived in Australia on [date] January 2013 At his first interview on [date] January 2013 and in his application for the visa he claimed to have been born in [year], while in other documents provided subsequently to the Department his date of birth is stated as [a different year].

25. The applicant's claims were set out in a statutory declaration dated [in] May 2013 that accompanied the application:

    1. *I fear that if I were to be forced to return to Bangladesh I will be seriously harmed because of my political activities.*

    My background

    2. *I was born in [name] Village, Munshiganj District, Bangladesh in [another year]. I am about [age].*

    3. *My father is retired. He worked running a business selling [goods], I took over the business from my father when he was older. My mother passed away in 2008.*

    Religious education and joining Jamat-e-Islami

    4. *From 2000-2006, I received religious education at a madrassa. It is a Sunni (Hanafi) madrassa. It was in the district of [location]. One of my uncles lives there. I learned about the various Hadiths. We learned about empathy and respect for others, non-aggression. I can read Arabic so I can read the Quran fully.*

    5. *In 2006, the madrassa had a camp and Jamat-e-Islami representatives came and gave a speech. I became interested in this party.*

    6. *I went back to my area after the madrassa. I began to learn more about Jamat-e-Islami. I believe in the religious aspects of the party and also the community welfare activities.*

    7. *I joined the party at the end of 2006. I used to go to meetings regularly.*

    8. *By 2010 my involvement with the party became more concrete. I was offered a post as an [official]. When a meeting was arranged my supervisors would ask me to do various activities in relation to organising the meetings, like arranging people to speak.*

    9. *I have been involved in many political demonstrations in my district. For example, we demonstrated to raise our voice against arrest of the Assistant President of our party in 2010. Another time we demonstrated against bad things being said in the media about our party. Another time we demonstrated against the government changing the law to take out the word 'bisulah'. These are just some examples of some of the demonstrations I was in.*

    10. *The Awami League and the police would often come and disrupt our meetings, Rubber bullets were fired and some people were beaten up, but most people ran away.*

    11. *These demonstrations would often be broken up by police violently. I was sometimes beaten but managed to run away each time.*

12. *I went to two meetings in Dakar in 2010. It was a big meeting and all party members from all districts were invited.*

Work as a [activity]

13. *In 2011, I started working as a [activity]. My job was to [description].*

14. *In my village there is a lot of crime like fighting and smuggling of drugs, so the police set up a civilian force to help control the situation. The police said one able-bodied person from each house was to help them with security.*

15. *I was asked to be involved and I accepted as I felt that it was important for our village. I felt happy to do it. I used to carry a stick and whistle, and I would blow the whistle if I saw trouble, and then the police would come. I also had an authorisation card. It was not paid work.*

16. *I helped for about 5 or 6 months.*

17. *The Awami League people are involved in the crime and the smuggling in the area. Their criminal activities were disturbed by our activities with the police, and this made the Awami League angry with me.*

18. *Some Awami League people had committed a murder. Other members of the Awami League told me they would frame me and make it look like I done it.*

19. *They said to me that if I did not stop doing that [activity] with the police they would start a murder case against me, so I had to stop. I felt compelled to stop.*

Extortion from Jamat-e-Islami

20. *From the second half of 2011, the Awami League members started coming to my business to extort money from me. It was well known that I belonged to Jamat-e-Islami. They were also angry for my previous activities with the police.*

21. *They targeted BNP businesses or business run by members of the Jamat-eIslami.*

22. *On the first two occasions they came to the shop I refused to pay them, and they left. On the third occasion they assaulted me by dragging me out of the shop and punched me. They told me they needed the money to finance their own organisation.*

23. *I informed the police about being beaten up. I made a written complaint. They assured me that some action would get taken. Before the police could do anything I was beaten up and they robbed my shop and took the money that was there.*

24. *I closed the shop, and I went to the police station with my father. The police did not want to accept our complaint. They did not accept our complaint because some people from the Awami League had rung the police and told them that the story we said was not true.*

25. *I kept the shop closed for a few days after that. In the meantime, the people who had beaten me up had come looking for me at the shop but the other shopkeepers in the area said I was not there. I was told this, and I so I decided to keep the shop shut for another one and a half months.*

26. *I then reopened my shop, but I did not go there myself. My father or someone else I employed would work there. His name is [Mr A]. He is not a member of the Jamat-e-Islami.*

27. *For one and a half years after that I did not go to the shop again in person. [Mr A] told me that the Awami League people had continued to come to the shop to take money. Even [Mr A] was beaten up a few times by these people.*

28. *Around the end of 2011, a threat was issued that I would be assassinated.*

29. *In early 2012 I relocated to a different address to live with [Relative A] because I was scared that I would be attacked. It's about half an hour by rickshaw from my parent's house, which is about 5 kilometres away.*

30. *I decided to sell the shop in around September 2012. It became impossible to make a living with the constant extortion. Just before I sold my shop, some Awami League people stopped me on the street and told that they would kill me.*

31. *Around November 2012, I stopped my political activities in person. I feared that they would kill me if I went in person. I continued my political activities but on the phone and by letter.*

What I fear would happen if I was forced to return to Bangladesh

32. *I fear that I would face arrest, torture, or death if I was returned to Bangladesh. The Awami league would come looking for me and try to kill me.*

33. *Also because I had lodged the complaint with the police about the shop being looted the Awami League people were angry with me.*

34. *Jamat-e-Islami members are getting very harsh treatment at the moment by the government. Many are arrested. The president for the Munshiganj branch of the party has recently had a warrant issued for his arrest.*

35. *I am still being looked for. When I was in [Country A] I called home and my family told me that the Awami League had come looking for me and had beaten my father and told him to bring me back.*

36. *Whenever I call home my mother she tells me that the Awami League keep coming to look for me at the family home, and keep beating my father. Sometimes they come with the police as recently the police have become involved in making cases against Jamat-e-Islami and have even shot people.*

37. *In early May 2013, my parents told me that there has been a warrant issued for my arrest. My family told me this — that the police had come to the house and told them there was a warrant for my arrest and I needed to go to the police station.*

38. *The Awami League are killing members of the Jamat-e-Islami and then saying that members of Jamat-e-Islami did it, so I am very scared about this warrant.*

26. The departmental file also contains submissions from the applicant's representative which were accompanied by a number of documents, including:

- A Bangladeshi birth certificate in the applicant's name in Bengali;
- A translation of that certificate, which states that it was issued from Register No. [number 1] on [date] May 2013, which is also stated to be the date of registration of the birth. The certificate bears the identification number [number], and states that the applicant's mother's name is [Ms B];

- Another birth certificate in the applicant's name in English. This certificate states that it was issued from Register No.[number 2] on [date] August 2014, which is also stated to be the date of registration of the birth. The certificate bears the identification number [number], and states that the applicant's mother's name is [Ms C].

27. The applicant provided the Tribunal with a copy of the decision record of the departmental delegate, in which his claims were summarised as follows:

> *The applicant attended an interview before me on [date] August 2014. The applicant's representative provided a post interview submission on [date] September 2014. The applicant's claims have been summarised below:*
> - *The applicant is a supporter of Jamaat-e-Islami Bangladesh (JI) political party and has been since 2006.*
> - *The applicant became an [official] for the party in 2010 and would assist his supervisors in various duties.*
> - *The applicant has been to many political demonstrations in his home district against the ruling party.*
> - *Both the Awami League (AL) and the police would disrupt these meetings, sometimes violently.*
> - *In 2011 the applicant worked as a volunteer with the police, patrolling his village and calling the police if he saw crime. The applicant performed this role for approximately 5-6 months.*
> - *While the applicant was performing this volunteer work, some members of the AL committed a murder, and threatened to frame the applicant for the crime.*
> - *Because of this threat the applicant stopped volunteering with the police.*
> - *From 2011 the AL starting going to the applicant's business to extort money from him. He was targeted because of his JI membership.*
> - *The first two times the AL went to the applicant's shop he refused and they left. The third time they went to the shop the AL assaulted the applicant.*
> - *The applicant made a complaint to the police but was again assaulted and robbed by the AL.*
> - *The police refused to take the applicant's complaint because the AL had told the police the charges were false.*
> - *The applicant did not go to his shop for 1.5 years, however in this time his employee, [Mr A] was assaulted by the AL. [Mr A] was not a member of JI.*
> - *In late 2011 a death threat was made about the applicant.*
> - *In 2012 the applicant moved to his [Relative A]'s house, and sold his shop in September 2012.*
> - *The applicant was threatened with death a second time by AL members in September 2012.*
> - *The applicant stopped his political activities in November 2012 due to fear for his life.*
> - *The applicant fears that if he returns to Bangladesh he will face arrest, torture, or death at the hands of the AL.*
> - *In May 2013 a warrant for the applicant's arrest has been issued for murder charges. He claims these charges have been falsely laid against him by the AL.*

28. In relation to the applicant's identity, the delegate referred to the provision of different names and dates of birth by him, and noted that he had provided '*a birth certificate that lists his date of birth as [Date 1]. Country information states that false documents are common in Bangladesh, and the contents of genuine documents are often incorrect due to high levels of corruption in the Bangladesh government. As such I do not put any weight on this document*.' The delegate does not refer to the second birth certificate that also appears on the file.

29. **The hearing**

30. The Tribunal advised the applicant at the hearing that it was required to consider whether s.91WA of the Act applied in his case. The Tribunal put to him that as he had produced two birth certificates containing different information the Tribunal may conclude that at least one of these birth certificates was a bogus document as defined in the Act, and that if it was satisfied that he had provided these birth certificates to the Department as evidence of his identity, if he could not provide a reasonable explanation for providing the bogus document the effect of s.91WA is that he cannot be granted a protection visa.

31. The applicant told the Tribunal that he had obtained the second birth certificate because the first contained an error as to his date of birth. The Tribunal pointed out to him that both certificates stated that he was born on [Date 1], however the applicant claimed that the first mistakenly said that he was born on [Date 2]. The Tribunal again explained that this was not the case, and that the two certificates contained differing information as to the registration of his birth and the name of his mother, but both stated the same birth date.

32. The applicant said that his father had obtained both certificates from the registry in Bangladesh at his request and had sent them to him. He said that his father had provided the information to the registry for the certificates to be issued. The Tribunal asked him why the first certificate said that his mother's name was '[Ms B]' while the second said it was '[Ms C]', and he responded that his mother was [Ms C], and that [Ms B] was his sister's name.

33. After a break to discuss the two different birth certificates with his representative, the applicant told the Tribunal that his father did not know that there was an error on the first certificate because he is illiterate. He said that if he had been in Bangladesh he could have rectified the error, but he had to rely on his father to obtain the documents.

34. In relation to his claims for protection, the applicant claimed that he feared persecution by Awami League members if he returned to Bangladesh. He said that he would be persecuted because of his work as a volunteer for the police in 2006, and his later activism on behalf of Jamaat-e-Islami (JI). He claimed that he became interested in JI in 2006, and was a full member of the organisation from 2009.

35. The applicant claimed that when he worked for the police he was often involved in targeting crime committed by Awami League members, and that this was what had led them to target him. He said that at the time, in 2006, the Awami League was in government in Bangladesh, while the Bangladesh Nationalist Party had controlled the council in his area of Munshiganj. The Tribunal asked him who controlled the police in his area at the time, and he answered '*the Awami League*'.

36. The Tribunal put to him that it was unlikely that he, as a JI supporter, would have worked for the police if they were controlled by the Awami League, and he responded that he could not remember who was in charge of the police in 2006. He said that the Awami League did not control the police until 2009, and he could not remember who was in control before that.

37. The Tribunal asked the applicant about his claims in paragraphs 18 and 19 of his statutory declaration (set out above) about the reason he stopped his police work. He said that when the Awami League members threatened to frame him for murder he did not report the matter to the police because the new Superintendent at the time was not impartial politically and there was no point complaining about the Awami League to him.

38. The Tribunal again pointed out to the applicant that his previous evidence had been that he did not know who controlled the police before 2009. He responded that he did not bother to find out.

39. The applicant then said that he had been threatened and assaulted repeatedly by Awami League members since he left the police in 2006. He said that whenever they came across him they would threaten him and physically assault him. He could not recall any specific occasions when this had happened and could not recall how many time he was assaulted. He tried to complain to the police but they would not accept his complaints.

40. The Tribunal asked the applicant if he could recall any particular incident, and he said that one day when he left his shop he was severely beaten up. He initially said that he could not recall when this happened, but when pressed by the Tribunal said that it was 5 or 6 months before he left Bangladesh. The Tribunal asked whether this was the worst assault he experienced, and he said that subsequent to that he was again severely beaten when walking near his home one evening. He said that his hands were tied and he was thrown into the water. This was about a month before he left Bangladesh.

41. The Tribunal put to the applicant that this account was inconsistent with the delegate's account of his claims to the Department, which records that he '*stopped his political activities in November 2012 due to fear for his life*' after receiving two death threats from the Awami League in 2011 and 2012, and with the claims in the written statement provided to the Department. He then said that the assaults he had referred to, including the incident when he was thrown into water with his hands tied, happened while he was at his [Relative A]'s house.

42. At the request of the applicant's representative, the Tribunal asked the applicant about the claim referred to by the delegate that a warrant had been issued in Bangladesh for his arrest on murder charges. He said that he had told the delegate that the police would arrest him if he returned to Bangladesh, because of ongoing problems between the Awami League and JI. The Tribunal asked why a warrant would be issued for him because of these problems, and the applicant responded that there is no formal arrest warrant in existence but he is afraid that the police would catch him if he returns.

43. **Assessment of claims**

44. The Tribunal found the applicant to be unconvincing and evasive in his evidence. His accounts of events in Bangladesh before his departure differed significantly from the accounts given to the Department, which are set out in his own written statement and in the delegate's decision record that he provided to the Tribunal.

45. It is unnecessary for the Tribunal to make findings as to the applicant's claims, however, as the Tribunal considers that the applicant's application for a protection visa must be refused under s.91WA of the Act on the basis that he provided a bogus document to the Department.

46. Did the applicant provide a bogus document as evidence of his identity?

47. The first question to be determined in this regard is whether any documents provided *or* caused to be provided by the applicant are 'bogus documents' within the meaning of that term in s.5(1) of the Act.

48. The Tribunal is satisfied that the applicant provided the Department with two different birth certificates in his name as evidence of his identity. Each of the two birth certificates produced by the applicant purports to have been issued in respect of him, and each appears to have been procured on the basis of his birth being newly registered, as each states that the date

of registration of his birth and the date of issue of the certificate are the same. Given that they contain conflicting information as to the name of his mother, the Tribunal is unable to be satisfied that either of the documents is a genuine record of the birth of the applicant.

49. The Tribunal is satisfied that these birth certificates each purport to have been issued in respect of the applicant as contemplated by paragraph (a) of the definition of 'bogus document'. On the evidence before it, however, it is not clear to the Tribunal whether either of the documents was issued in respect of the applicant. The Tribunal prefers not to make a finding on paragraph (a) of the definition of bogus document in these circumstances.

50. However, given that the documents contain different information as to the identity of the applicant's mother and the registration of his birth, the Tribunal is satisfied that the documents were obtained because of a false or misleading statement made by the person who procured the documents for the applicant, whether or not made knowingly, and accordingly at least one of the documents is a 'bogus document' for the purposes of paragraph (c) of that definition in s.5(1) of the Act.

51. Does the applicant have a reasonable explanation for providing the bogus document?

52. The second question to be determined in relation to the application of s.91WA to this case is whether the applicant has a reasonable explanation for providing or causing to provide the bogus document.

53. The explanation provided by the applicant at the hearing was that his father, who obtained the birth certificates for him at his request, is illiterate and therefore did not realise that a mistake had been made by the registry in issuing the first certificate. The applicant was unable to offer any explanation as to how his mother's name could have been incorrectly entered into the registry other than to assert that it was a mistake on the part of the registry. The Tribunal has found above that it is satisfied that false or misleading information must have been provided to the registry in order for this certificate to have been issued with incorrect information, and does not accept that an error was made by the registry.

54. The Tribunal does not accept this explanation as being plausible. As noted above, the two birth certificates contain different names for the applicant's mother. The applicant claimed that the other details in the first certificate and the contents of the second certificate provided by the applicant to the Department are correct. He said in his evidence at the hearing that the second certificate was obtained because there was an error in the date of birth stated on the first certificate, yet as the Tribunal pointed out at the hearing both certificates state his date of birth as [Date 1], which he says is the correct date.

55. In the circumstances, the Tribunal does not consider that the applicant has provided any reasonable explanation for the existence of the conflicting birth certificates, or for different information contained in them. As the different information can only have been provided by the applicant's father, for reasons which remain unclear, the Tribunal does not accept that the provision of a bogus document was an '*innocent, unintended or accidental matter*'[2].

56. The Tribunal notes that the delegate's decision refers to some confusion as to the applicant's correct date of birth, which was recorded as [Date 2] at his entry interview. The decision record states that when he was asked about his date of birth at a later interview he claimed to have said at the entry interview that he was [age] but did not know his exact birth date or year. The delegate then notes that '*the recording of his interview indicates that he said he was born on [Date 2]*'.

[2] *Trevidi v Minister for Immigration and Border Protection* (2014) 141 ALD 252 at [32].

57. At the hearing the applicant claimed that he obtained the second birth certificate because the first had erroneously stated his date of birth to be [Date 2]. As noted above, that was not the case, as that date had come from the applicant himself when he was interviewed by the Department.

58. Having regard to all of the evidence, the Tribunal is unable to accept the applicant's explanation for providing a bogus document as reasonable. In making that finding, the Tribunal notes that the applicant's actual date of birth remains unclear, as does his motivation for providing two different birth certificates to the Department.

59. **CONCLUSION**

60. The Tribunal is satisfied that the applicant has presented a bogus Bangladeshi birth certificate as evidence of his identity. The Tribunal is not satisfied that the applicant has a reasonable explanation for providing a bogus document to the Department. Accordingly, the Tribunal is satisfied that s.91WA(1) of the Act applies to the applicant and that, accordingly, grant of a protection visa is precluded by s.91WA of the Act.

DECISION

61. The Tribunal affirms the decision not to grant the applicant a protection visa.

Bruce Henry
Member

EXTRACTS FROM THE MIGRATION ACT

Section 5 Interpretation

(1) In this Act, unless the contrary intention appears: …

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

(a) purports to have been, but was not, issued in respect of the person; or

(b) is counterfeit or has been altered by a person who does not have authority to do so; or

(c) was obtained because of a false or misleading statement, whether or not made knowingly.

…

Section 91WA Providing bogus documents or destroying identity documents

(1) The Minister must refuse to grant a protection visa to an applicant for a protection visa if:

(a) the applicant provides a bogus document as evidence of the applicant's identity, nationality or citizenship; or

(i) has destroyed or disposed of documentary evidence of the applicant's identity, nationality or citizenship; or

(ii) has caused such documentary evidence to be destroyed or disposed of.

(2) Subsection (1) does not apply if the Minister is satisfied that the applicant:

(a) has a reasonable explanation for providing the bogus document or for the destruction or disposal of the documentary evidence; and

(b) either:

(i) provides documentary evidence of his or her identity, nationality or citizenship; or

(ii) has taken reasonable steps to provide such evidence.

(3) For the purposes of this section, a person provides a document if the person provides, gives or presents the document or causes the document to be provided, given or presented.